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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re D.C., a Person Coming Under the  
Juvenile Court Law.

B217351

(Los Angeles County Super. Ct.  
No. CK76656)

LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND  
FAMILY SERVICES,

Plaintiff and Respondent,

v.

DAVID C.,

Defendant and Appellant.

APPEAL from a judgment of the Superior Court of Los Angeles County, Jan G. Levine, Judge. Affirmed.

Carrie Clarke, under appointment by the Court of Appeal, for Defendant and Appellant.

Andrea Sheridan Ordin, County Counsel, James M. Owens, Assistant County Counsel, and Aileen Wong, Deputy County Counsel, for Plaintiff and Respondent.

David C. (father) appeals from the judgment and orders of May 26, 2009, declaring his daughter, D.C. (D.), a dependent of the court under Welfare and Institutions Code section 360, subdivision (d).<sup>1</sup> He contends substantial evidence does not support the jurisdictional finding. He further contends the dispositional order requiring father to participate in a parenting program was an abuse of discretion. We conclude the jurisdictional finding is supported by substantial evidence, and, as father failed to object to the dispositional order in the dependency court, he has forfeited the issue. In any event, the dispositional order was not an abuse of discretion. Accordingly, we affirm the judgment.

### **STATEMENT OF FACTS AND PROCEDURE**

D. was born in 2003 to father and Dana H. (mother), who were not married. D. lived with mother and two half-sisters, D.G., and D.M.<sup>2</sup> The parents ended their relationship in 2006. Father married Angelica. An August 2008 family court order awarded the parents joint legal custody of D., mother primary physical custody, and father visitation.

Father had a history of inflicting physical and emotional abuse on mother and Angelica, and physical abuse on the children.<sup>3</sup> In 2003, father slapped D.'s eight-year-old half-sister D.M. across her face when she failed to pass him the pepper for his eggs. He would push and grab mother while emotionally abusing her. The domestic violence was at its worst during the pregnancy with D.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code, unless otherwise indicated.

<sup>2</sup> Father is not D.G.'s or D.M.'s father. D.G. was born in 1999, and D.M. was born in 1995.

<sup>3</sup> Father also had a criminal history. In 2007, he was convicted of driving without a license. In 1998, he was convicted of petty theft.

D. witnessed father and Angelica fighting and arguing “all the time” and was present when father slapped Angelica, causing her lip to bleed. Father “call[ed] [Angelica] fat all the time.” D. was afraid of father, “because I think he will kill me and get mad. I don’t think he loves me. Sometimes he is nice and sometimes he is not nice.”

Father had two car accidents when D. was a passenger, because he was arguing with Angelica while driving. In one accident, D. suffered a concussion and was hospitalized for three days. Father tried to prevent mother from finding out about the accident. One accident put Angelica in the hospital and caused D. to fear father would injure her nose and make it bleed like Angelica’s.

During a visit in October 2008, father had an argument with Angelica when D. was in the car with them. While yelling at Angelica, father became angry with D. because she wanted to go home to mother. Father would not listen to D. when she stated she was ready to go home. Instead, he struck D. in the face, causing her lip to bleed and her jaw and lip to swell. Father kept D. past the time for returning her to mother and did not bring her home until told to do so by the police. Thereafter, mother refused to allow father to visit D.

On March 19, 2009, mother was arrested for violation of probation stemming from a 2005 conviction for narcotic sales. D. was detained by the Department of Children and Family Services (Department) and released to father.

D.’s school nurse instructed father to fill out a medical packet for D.’s asthma medicine and check the medicine into the school office, so that the school could administer it when needed. Father failed to comply, causing the nurse to be concerned about “the father’s disregard of the severity of the matter.”

On May 2, 2009, father left a message for the social worker requesting that D. be removed from his custody because he could not control her. D. was refusing to obey the rules and listen to father; she spat at him and threw things. When the social worker called him back, he stated he would like help with D.’s behavior.

On May 26, 2009, D. was declared a dependent of the court, based on sustained allegations under section 300, subdivision (a) (substantial risk of serious physical harm

inflicted nonaccidentally) that: father “physically abused the child by striking the child’s face inflicting a bleeding laceration to the child’s mouth,” which caused unreasonable pain and suffering, endangers the child’s physical and emotional safety, creates a detrimental home environment, and places the child at risk of harm.<sup>4</sup> Prior to the disposition hearing, father signed the case disposition plan, which included a requirement that father participate in parenting counseling. At the hearing, he did not object to this requirement but made other requests concerning dispositional issues. The Department revised the case disposition plan to give father custody of D. in a home of parent-father order, and, as revised, the dependency court ordered the case disposition plan.

## **DISCUSSION**

### **Substantial Evidence**

Father contends substantial evidence does not support the sustained allegation that father hit D. on the mouth causing it to bleed, which placed D. at risk of harm. The contention is without merit.

“In reviewing the jurisdictional findings and the disposition, we look to see if substantial evidence, contradicted or uncontradicted, supports them. [Citation.] In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court’s determinations; and we note that issues of fact and credibility are the province of the trial court. [Citation.]” (*In re Heather A.* (1996) 52 Cal.App.4th 183, 193.) “We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court.” (*In re Matthew S.* (1988) 201 Cal.App.3d 315, 321.)

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<sup>4</sup> Physical abuse allegations under section 300, subdivision (a) concerning D. were sustained against mother as well.

The record contains evidence that D. told one social worker in February 2009 and another social worker in April 2009 that father struck her on the mouth. She told mother and D.G. that father struck her on the mouth, and mother and D.G. observed blood and swelling. This is substantial evidence supporting the sustained allegation that father hit D. on the mouth causing it to bleed. It is reasonable to infer from the evidence father hit D.M. and Angelica in the face and on many occasions inflicted physical and emotional spousal abuse, that father's conduct striking D. on the mouth created a substantial risk of serious harm.

Father asks us to reweigh conflicting evidence and find that the incident did not happen. This we will not do. (See, e.g., *Scott v. Pacific Gas & Electric Co.* (1995) 11 Cal.4th 454, 465 ["When considering a claim of insufficient evidence on appeal, we do not reweigh the evidence, but rather determine whether, after resolving all conflicts favorably to the prevailing party, and according the prevailing party the benefit of all reasonable inferences, there is substantial evidence to support the judgment."].) Accordingly, substantial evidence supports the finding.

### **Parenting Order<sup>5</sup>**

Father contends the order requiring him to complete a parenting program was an abuse of discretion. Father did not object to the order in the dependency court. Moreover, at the hearing, he acknowledged signing the case disposition plan, asked the dependency court to modify another aspect of the plan, and stated, "but [father will] submit to what the court orders." Having failed to object to the case disposition plan requirement that he complete a parenting program, father forfeited the issue on appeal. (*In re Christopher B.* (1996) 43 Cal.App.4th 551, 558 ["In dependency litigation,

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<sup>5</sup> We advised the parties it appeared father forfeited his objection that the parenting requirement was an abuse of discretion by signing the case disposition plan and failing to object in the dependency court. The parties were given an opportunity to submit supplemental briefing.

nonjurisdictional issues must be the subject of objection or appropriate motions in the juvenile court; otherwise those arguments have been waived and may not be raised for the first time on appeal.”]; *In re Anthony P.* (1995) 39 Cal.App.4th 635, 641-642.)

Were we to decide the issue, we would conclude the contention has no merit.

Section 362, subdivision (a) provides in pertinent part: “When a child is adjudged a dependent child of the court on the ground that the child is a person described by Section 300, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child.”

Section 362, subdivision (c) provides in pertinent part: “The juvenile court may direct any and all reasonable orders to the parents . . . of the child who is the subject of any proceedings under this chapter as the court deems necessary and proper to carry out the provisions of this section . . . . That order may include a direction to participate in a counseling or education program, including, but not limited to, a parent education and parenting program . . . . The program in which a parent or guardian is required to participate shall be designed to eliminate those conditions that led to the court’s finding that the child is a person described by Section 300.”

“The court has broad discretion to determine what would best serve and protect the child’s interest and to fashion a dispositional order in accord with this discretion.” (*In re Christopher H.* (1996) 50 Cal.App.4th 1001, 1006.)

When a determination is “committed to the sound discretion of the juvenile court, . . . the trial court’s ruling should not be disturbed on appeal unless an abuse of discretion is clearly established. [Citations.] As one court has stated, when a court has made a custody determination in a dependency proceeding, “a reviewing court will not disturb that decision unless the trial court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].”

[Citations.] And we have recently warned: “The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. When two or more inferences can reasonably be deduced from the facts, the reviewing court has no authority to substitute its decision for that of the trial court.” [Citations.]” (*In re Stephanie M.*

(1994) 7 Cal.4th 295, 318-319.) Where substantial evidence supports the order, there is no abuse of discretion. (*In re Daniel C. H.* (1990) 220 Cal.App.3d 814, 839.)

The following facts in the record support the order that father must complete a parenting program. Father hit D. in the face, injuring her, and slapped D.'s half-sister in the face, to discipline them. He frequently engaged in domestic violence in D.'s presence. He did not listen to D. when she expressed her needs. He created a grave risk of harm by engaging in domestic violence while D. was a passenger in the car. Indeed, D. sustained a concussion as a result of one of the accidents he caused. Father failed to understand the importance of complying with the school's procedures for handling D.'s asthma medicine. He expressed the need for help in handling D.'s acting out behaviors. The foregoing facts show that the parenting order was reasonably aimed at correcting father's failings as a provider of care and supervision of D. and eliminating the conditions that led to the finding that father's conduct created a substantial risk of serious physical harm to D.

### **DISPOSITION**

The judgment is affirmed.

KRIEGLER, J.

We concur:

MOSK, Acting P. J.

FERNS, J.\*

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\* Judge of the Los Angeles Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.